

Message

From: Mutter, Andrew [mutter.andrew@epa.gov]
Sent: 7/10/2018 7:27:37 PM
To: Benevento, Douglas [benevento.douglas@epa.gov]
Subject: FW: Daily News Clips 7/10/18

From: Horne, Amanda
Sent: Tuesday, July 10, 2018 1:27:35 PM (UTC-07:00) Mountain Time (US & Canada)
To: AO OPA OMR CLIPS
Cc: Lynn, Tricia
Subject: Daily News Clips 7/10/18

Acting Administrator Wheeler

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E&E Daily

<https://www.eenews.net/eedaily/stories/1060088615/search?keyword=EPA>

For Dems, Wheeler 'could only be better'

Published on July 10, 2018, By: Nick Sobczyk and George Cahlink

Former EPA Administrator Scott Pruitt's departure from the agency last week had Democrats celebrating.

And for now, some are taking a measured stance on newly minted acting chief Andrew Wheeler, despite his ties to coal firm Murray Energy Corp.

"Could not be worse," Senate Environment and Public Works Committee ranking member Tom Carper (D-Del.) said yesterday. "Could only be better."

Sen. Sheldon Whitehouse (D-R.I.) called Wheeler a "full-on climate denier." But at the same time, he said, Wheeler — a former EPW Committee staffer — might allow Democrats a less contentious relationship with EPA, even if they disagree with his policies.

When Wheeler was with the committee, "you knew where you stood," Whitehouse said.

"He had what you might call transactional integrity," Whitehouse added. "So that's not great — that's like honor among thieves. But it's better than nothing, and Pruitt was nothing. He was thievery among thieves."

Meanwhile, Sen. Jim Inhofe (R-Okla.), a senior EPW Committee member, praised Wheeler, telling reporters yesterday the former staffer knows the "job better than anyone in America knows that job."

He joked that the "only strike" against Wheeler is that he had worked for him as a top Senate staffer and committee aide for 14 years.

"He'll be a great acting director, and I would strongly recommend him to be the director," Inhofe added.

It remains unclear whom President Trump will nominate to take EPA's top job. Federal law allows Wheeler to serve as acting director for 210 days, potentially extending his tenure until after the midterm elections.

Inhofe suggested the Senate would be able to confirm him for the permanent post if nominated, given that the chamber backed him on a 53-45 vote to be deputy earlier this year.

"It would put a lot of people in awkward positions if they confirmed him six months ago and then [asked], 'OK, why not confirm him now?'" he added.

However, Sen. Chuck Grassley (R-Iowa), a frequent critic of Pruitt over his handling of ethanol, said he was not expecting a Pruitt successor anytime soon.

"No, next year," Grassley said when asked whether he expected a new EPA nominee before the elections.

Both Carper and EPW Chairman John Barrasso (R-Wyo.) signaled yesterday they want to bring Wheeler before their committee for an oversight hearing in the coming months, given that they were scheduled to examine Pruitt's conduct in August.

Carper added that he would like to see through the multiple ongoing investigations into the former administrator's behavior.

"We have a dozen or more investigations underway," he said. "My hope is that a number of them will continue and we'll find out if there's actually fire where there's smoke on those."

But as for whom Trump will nominate, Carper, too, signaled he wasn't in a rush to have a controversial vote before the midterms.

"[Trump] might want to give Mr. Wheeler a chance to show what he can do," Carper said. "Is it same old, same old? Or is this a new day?"

The Washington Examiner

<https://www.washingtonexaminer.com/policy/energy/epa-defends-hiring-of-trump-nominees-before-their-confirmation>

EPA defends hiring of Trump nominees before their confirmation

Posted on: July 9, 2018 4:19pm by: John Siciliano

The Environmental Protection Agency quickly defended its decision to allow two Trump nominees to begin work at the agency in lower-level positions prior to being confirmed to top roles, after a top Democrat voiced concerns.

Peter Wright and Chad McIntosh began working at EPA as “special counsels” to Andrew Wheeler, the acting EPA administrator, who took over after former EPA administrator Scott Pruitt resigned late last week.

EPA assured that the decision to allow the two nominees to work at the agency is being done within the confines of the law, and abides by court precedent.

“The agency will ensure we are in compliance with the law at all times,” said Kevin Minoli, EPA principal deputy general counsel, in a statement to the Washington Examiner. “There is nothing in the Vacancies Reform Act or the Supreme Court jurisprudence that is dependent on the stage a nomination is at in the Senate’s advice and consent process,” Minoli explained.

Sen. Tom Carper of Delaware, the top Democrat on the Environment and Public Works Committee, said having the two at work at the agency so soon after Pruitt’s resignation is “troubling.”

“To announce that EPA will bring on Mr. Wright and Mr. McIntosh on the day that Administrator Pruitt departs — before they have even responded to senators’ post-hearing questions and without notifying the Environment and Public Works Committee, the committee that has jurisdiction over the agency — not only breaks with past norm and precedents, but shows incredibly poor judgment, especially when we should be turning over a new leaf,” Carper said in a statement.

EPA Chief of Staff Ryan Jackson announced that the two would be working at the agency beginning on Monday in an agency-wide email sent Friday, E&E News first reported. EPA did not send a copy of the Ryan email in response to the Washington Examiner’s request.

However, an EPA spokesperson explained that Wright and McIntosh will not be performing the duties for which they were nominated.

“Neither will be performing any duties that are reserved for the position for which they have been nominated,” the spokesperson said in statement. It was reported that the two nominees would advise Wheeler on issues related to the positions they were nominated to occupy.

Wright and McIntosh, if confirmed, will head EPA’s offices of Land and Emergency Management and International and Tribal Affairs, respectively.

EPA underscored in an email that Carper had praised Wright at a June 20 confirmation hearing for stating that he would recuse himself from working on any Superfund clean-up site related to his former employer, the Dow Chemical Company, now DowDuPont, where he helped lead Dow’s Superfund cleanup work.

“I commend Mr. Wright for working on this recusal statement prior to confirmation, prior to confirmation,” said Carper in prepared remarks. “He has committed to take more meaningful steps to address potential conflicts of interest than any previous Trump Administration nominee that I am aware of, and I commend you for that.”

McIntosh had worked for automaker Ford. Carper had no immediate complaint over his previous experience.

Trump’s EPA had previously employed at least two nominees, including Susan Bodine and Michael Dourson, before their confirmations. Bodine now leads the agency’s enforcement office.

Dourson withdrew his nomination after Senate opposition mounted against his leading the agency’s chemical safety office. He had been a researcher whose work had been seen as bolstering claims by chemical manufacturers of pesticides, flame retardants, and other chemicals with harmful health effects.

Air
Bloomberg Environment

http://esweb.bna.com/eslw/display/no_alpha.adp?mode=si&frag_id=137544895&item=408&prod=deIn&cat=AGENCY

Petroleum Refineries get breathing room to meet Toxic Air limits

Posted: July 10, 2018 by: [Amena H. Saïyid](#)

Petroleum refineries built before July 1, 2014, will have more time to meet toxic air pollution limits for maintenance vents used when operations are started up or shut down for inspection or routine repairs.

The Environmental Protection Agency plans to push the compliance date from Aug. 1, 2017, to Jan. 30, 2019, to give refiners more time to engineer changes, install new alarms, conduct risk assessments, update plans, and provide training.

Maintenance vents are used only during startup, shutdown, maintenance, or inspection when equipment is emptied, depressurized, degassed, or placed into service, according to the EPA.

Deciding Deadlines

The Clean Air Act requires the use of maximum achievable control technologies to limit hazardous air pollution. The 2015 rule spelled out new requirements for maintenance vents. Aug. 1, 2017, was the initial deadline the petroleum industry received in the 2015 rule.

A number of refineries requested and received a one-year extension to Aug. 1, 2018, but the EPA said this delay wasn't enough to get everyone on board. The American Petroleum Institute and the American Fuel & Petrochemical Manufacturers asked for an extension to Jan. 30, 2019.

The proposed extension recognizes the difficulty that refiners are facing in meeting the compliance date, the EPA said. That's why the agency also proposed technical corrections (RIN: 2060-AT50) April 10 to the requirements for maintenance vents that it said will be completed before the Jan. 30 deadline.

140 Units Affected

The extension would apply to an estimated 140 refineries in the country that process a variety of petroleum products, David Friedman, vice president for regulatory affairs with American Fuel & Petrochemical Manufacturers in Washington, told Bloomberg Environment.

Refiners are waiting for the EPA to finalize the technical corrections—which clarify reporting and record-keeping requirements—before they can begin to comply, Friedman said. The EPA isn't expected to issue that final rule until the end of the third quarter of this year, he added.

"The agency has recognized the fact that we want to comply," Friedman said.

Pesticides

Two federal judges expressed frustration yesterday with EPA's foot-dragging on the regulation of a farm pesticide linked to children's health problems.

At issue: Former EPA Administrator Scott Pruitt's March 2017 decision rejecting a proposed chlorpyrifos ban after past assessments had identified health risks and the agency's failure to make a final determination on whether to revoke food tolerances for the pesticide.

"These cases are never simple. And it's a complex record. And we recognize that. But it's been going on for years now," Judge Jacqueline Nguyen, an Obama appointee, said at oral arguments in the 9th U.S. Circuit Court of Appeals.

"How long can EPA sit on this?"

Pesticide Action Network North American and the Natural Resources Defense Council petitioned EPA in 2007 to ban chlorpyrifos. The pesticide has been banned indoors since 2000 but is commonly used in agriculture. More than half the apples grown in the United States are treated with it.

During the Obama administration, EPA proposed to grant the petition after health assessments showed current uses of chlorpyrifos posed dietary and drinking water risks to humans, especially children.

The 9th Circuit ordered the agency to make a final decision by March 31, 2017.

But the Trump EPA overturned the proposed ban. Instead of revoking food tolerance, EPA said it would continue to study whether the pesticide is linked to brain damage in children. The agency argued it lacks the authority to take regulatory action until an Oct. 1, 2022, deadline established by Congress (*Greenwire*, March 30, 2017). Environmentalists and farm workers took the case back to the 9th Circuit, which heard about an hour of oral arguments yesterday.

Patti Goldman, managing attorney at Earthjustice, slammed EPA for sidestepping the court's previous order to finalize the ban and failing to make a required finding that tolerances for chlorpyrifos were safe.

"The order left tolerances in place even though the administrator did not, and could not, find this pesticide to be safe," said Goldman, who's representing the advocates in the litigation.

But the Trump administration yesterday argued that the court lacks jurisdiction to even hear the case before EPA finishes an administrative process.

Along with filing their lawsuit, advocacy groups filed formal objections with the agency to the March 2017 decision. EPA has not yet acted on those objections.

"We have not made a final decision here. ... Only final decisions after the administrative objections process are reviewable by this court," said Phillip Dupre, a Justice Department attorney representing EPA.

He added, "It's unclear why petitioners think they can get around that simply by saying, 'It's clearly illegal, therefore we don't have to go through the administrative objections process.'"

Dupre told the judges that EPA expects to complete its response to the objections "within a year from now."

But both Nguyen and Senior District Judge Jed Rakoff of the Southern District of New York, who is sitting in on the case in the 9th Circuit, were skeptical of EPA's arguments.

"Doesn't it open up the real possibility that an administrative agency can effectively deprive a court of ever reaching a review of its determinations by just stretching things out year after year?" asked Rakoff, who was appointed to the bench by President Clinton.

Both judges seemed inclined to agree with the environmentalists that EPA's response to the objections did not require further scientific study and that it would be unreasonable to give the agency another year to lay out its legal arguments in a formal response to the groups.

"It's like a law school homework assignment. Maybe you need an extension on your paper, but not a year," Rakoff said. The law requires EPA to respond to the objections as soon as "practicable." Dupre countered that the agency didn't intend to drag out the process to avoid review.

"EPA has a lot going on," he said, "and I think it's unfair to simply assume that any failure to take any particular action is a result of bad faith."

Seven states and the District of Columbia have also jumped into the litigation on behalf of the advocates.

Frederick Brodie of the New York State Office of the Attorney General yesterday urged the 9th Circuit to compel EPA to answer the administrative objections within 30 days so that the court could answer the case on the merits.

"Children are being exposed to chlorpyrifos day by day, minute by minute," he said. "So it's important to resolve this case as soon as possible."

Clean Power Plan

The Hill

<http://thehill.com/policy/energy-environment/396298-trump-admin-moves-forward-on-replacing-obama-epa-climate-rule?amp>

EPA takes next step toward replacing Obama-era climate rule

Published: July 10, 2018 11:59am By: Timothy Kama

The Trump administration is taking a big step toward in its effort to replace the Obama administration's climate change rule for power plants with a more industry-friendly alternative.

The Environmental Protection Agency (EPA) said that on Monday it sent a proposed rule to reduce carbon dioxide emissions from power plants to the White House Office of Management and Budget (OMB) for review.

The OMB review, an internal process that checks for compliance with various laws and administration priorities, is the final step before the rule can be released publicly and made available for public comment.

The EPA hasn't revealed the contents of the proposal. The Trump administration in December requested public input on ideas for a replacement.

The rule would replace the Clean Power Plan, the main pillar of former President Obama's climate change agenda that sought a 32 percent cut in carbon emissions from the country's power sector by 2030. States were allowed to decide how best to accomplish that goal.

The Obama rule was put on hold by the Supreme Court in 2016 as a result of litigation led in part by then-Oklahoma Attorney General Scott Pruitt. Pruitt went on to become EPA's administrator before resigning last week under the cloud of numerous scandals.

Pruitt and President Trump prioritized repealing the Clean Power Plan, and Pruitt formally proposed undoing it last year, an action that has not yet been made final.

Sources familiar with the EPA's deliberations say the agency wants to write a regulation that focuses almost exclusively on making coal-fired power plants more efficient. That would result in minimal reductions in carbon emissions, and environmentalists say emissions could in turn increase since coal plants would be cheaper to operate.

While Pruitt initially did not want to replace the Clean Power Plan, industry leaders pushed him in that direction, arguing that doing so would reduce the risk of climate-change lawsuits against companies, as well as future lawsuits against the EPA for not regulating greenhouse gases.

Both Pruitt and current Acting Administrator Andrew Wheeler have expressed skepticism of the scientific consensus that climate change is caused primarily by human activity.

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Pollution

Bloomberg Environment

<https://bna.com/environment-and-energy/epa-toxics-office-ignores-risks-of-five-hazardous-air-pollutants>

EPA Toxics Office ignores risk of five hazardous air pollutants

Posted: July, 10, 2018 12:13pm By: Pat Rizzuto

The EPA has decided not to consider the public's risks from certain toxic chemicals once they're released into the air, saying they're already adequately controlled.

Airborne releases of each of the five pollutants "are adequately assessed and any risks effectively managed" under the Clean Air Act, the Environmental Protection Agency said in risk analysis plans it recently released for the five chemicals.

Therefore, the "EPA does not plan to evaluate emission pathways to ambient air from commercial and industrial stationary sources or associated inhalation exposure of the general population or terrestrial species," the agency said.

Environmental advocates disagreed with the decision, saying the EPA hasn't gone far enough to examine the chemicals' health effects, particularly on children.

"It is pretty obvious that EPA, influenced by the chemical industry, is taking a see-no-evil, speak-no-evil approach to these potential dangers," Frank O'Donnell, president of Clean Air Watch, told Bloomberg Environment.

The EPA didn't respond to multiple requests for comment.

Five Air Pollutants

The five hazardous air pollutants—which are all solvents—are: 1,4-dioxane (CAS No. 123-91-1), carbon tetrachloride (CAS No. 56-23-5), methylene chloride (CAS No. 75-09-2), perchloroethylene (CAS No. 127-18-4), and trichloroethylene (CAS No. 79-01-6). They also are volatile organic compounds, meaning they help form ozone.

Four of the air pollutants are likely to cause cancer, according to the EPA. It classifies the fifth chemical, trichloroethylene (TCE), as a known human carcinogen. Most of the five air pollutants, including TCE, can harm liver and kidney function. Trichloroethylene also can reduce fertility and suppress the immune system.

The Clean Air Act requires the EPA to set technology-based standards to control emissions of these and other toxic air pollutants. The agency then periodically reviews those standards to ensure they are sufficiently protective of public health.

The EPA would examine ways people could be exposed to the five chemicals if they worked at a company that made or used the compounds, or purchased products that released them. But the agency wouldn't count any exposure that took place as those same people walked outside between their jobs or the stores where they purchased the products.

Bloomberg Environment contacted five chemical manufacturers listed in the EPA's Toxics Release Inventory as having production facilities that emitted the highest volumes nationwide of one of each of the five pollutants.

Four of the five companies—3V Sigma USA, Dover Chemical Corp., the Olin Corp., and Daramic LLC—didn't respond to a request for comment.

Penny Mahoney, director of sustainability at DAK Americas, declined to comment on whether the agency is taking an appropriate analytic approach to the risks posed by these hazardous chemicals.

Risk to Children

Recent amendments to the nation's primary chemical law—the Toxic Substances Control Act—said children are among those the agency should examine to ensure it considers the risks potentially exposed or susceptible populations may face from chemicals.

"It's inconceivable that EPA would exclude air pollution," yet claim it is examining children's risk, S. Katharine Hammond, an environmental health professor at the University of California, Berkeley, told Bloomberg Environment.

The EPA could examine the amount of exposures to these five hazardous air pollutants and then decide the exposure is so low that it would not pose a health risk, she said. But the agency can't fully evaluate people's risk until it has looked at their total exposure, Hammond said.

The Berkeley/Stanford Children's Environmental Health Center that Hammond helps run focuses on children's exposure to air pollutants generally, including some hazardous air pollutants.

The center's research hasn't focused on the five toxic air pollutants the agency is evaluating, she said. But its research on other hazardous air pollutants has shown that tiny concentrations—at the parts per billion level—of hazardous air pollutants can harm children's immune systems and increase the likelihood that they are born prematurely, she said.

Risk Analysis Comes First

The agency's approach "flies in the face of what Congress told EPA to do" when it amended TSCA in 2016, said Richard Denison, lead senior scientist with the Environmental Defense Fund.

The Environmental Defense Fund is among many environmental, health, and other non-profit groups challenging the EPA risk assessment approach in court.

Communities that live in industrial areas where air pollution and other chemical exposures tend to be higher would have that reality presumed "not to exist," Denison said. Those exposures are presumed to be zero under the EPA's approach, he said.

Denison said the law is clear: The EPA must first comprehensively assess a chemical's risks.

Then, if the agency concludes there is an unreasonable risk, it would decide whether TSCA or other legal statutes would adequately address that risk, he said.

"The agency has totally reversed that approach," Denison said.

The EPA is accepting comment through July 26 on its "problem formulations," the documents that describe its proposed approach to assessing the risks of all 10 chemicals.

E&E

<https://www.eenews.net/eenewspm/stories/1060088595/search?keyword=EPA>

EPA to study low-sulfur requirements for shipping

Published: July 9, 2018 by [Sean Reilly](#)

Two years after a Senate committee broached the possibility of exempting much of the coastal shipping industry from low-sulfur fuel requirements, EPA is launching a study of the economic impact of those limits.

The effort — set to kick off with a July 30 workshop at EPA headquarters — will focus on routes "that may be at risk of transportation mode shift" resulting from higher operating costs due to the use of low-sulfur diesel fuel, according to a [notice](#) in today's *Federal Register*.

The agency expects to complete the study in fiscal 2020, according to an [overview](#) sent to House and Senate appropriators in February.

The limits on fuel sulfur content in what is formally known as the North American Emission Control Area are part of an EPA strategy to cut pollution from large marine diesel engines. Coupled with tighter engine standards, the program ensures that emissions from all ships operating in U.S. ports and waters "will be reduced significantly, delivering substantial benefits to large segments of the population, as well as to marine and terrestrial ecosystems," the overview says.

Canada and France had joined the United States in proposing the Emission Control Area. By 2030, EPA predicts the program will cut releases of sulfur oxides by 1.3 million tons, nitrogen oxides by 1.2 million tons and particulate matter by 143,000 tons.

Starting in August 2012, the sulfur content for fuel used by ships in the Emission Control Area was limited to 10,000 parts per million. In early 2015, that threshold was slashed to 1,000 ppm. But the tighter controls have generated pushback from shipping companies, which have found a receptive ear in some circles of Congress.

As part of a report accompanying its version of an EPA spending bill, a Senate Appropriations subcommittee in June 2016 urged the agency to consider exempting ships equipped with engines that generate less than 32,000 horsepower and operate more than 50 miles from the coastline.

While the subcommittee offered support for pollution control efforts, members also voiced concern that the low-sulfur fuel program was disproportionately affecting such vessels, with some shippers potentially shifting "from marine-based transport to less efficient higher-emitting modes" as a result. They asked EPA to deliver a report detailing its decision on the exemption request within six months.

But because the request was included in the bill report, it was not binding.

EPA press aides didn't immediately reply to an emailed request this afternoon asking why the agency is undertaking the economic impact study now. But in their February overview, EPA officials said that about 85 percent of ships visiting U.S. ports use engines that fall below the 32,000-horsepower threshold. Before making a decision on the exemption request, they said, "it will be necessary for the EPA to examine the potential for modal shift in coastal marine transportation markets."

The July 30 workshop is geared to gathering feedback from shipping companies, railroads and truckers, environmental groups, and others "who may have information that may be useful to this study," today's *Federal Register* notice says.

The Journal

<https://the-journal.com/articles/102104>

Truck hauling Gold King Mine Sludge crashes into Cement Creek

Posted July 9, 2018 at 6:22pm by: [Jonathan Romeo](#)

A truck hauling sludge from the Environmental Protection Agency's water-treatment plant for the Gold King Mine went off the road Monday and crashed into Cement Creek.

Colorado State Patrol Capt. Adrian Driscoll said Monday afternoon a hazardous material team was en route. He did not have additional information on the crash.

EPA said in an emailed statement Monday the truck went off the shoulder of the road about one mile above the town of Silverton. The agency said an estimated 9 cubic yards of sludge entered the creek. That's almost the amount of a full dump truck load.

EPA said the driver was uninjured. The EPA contracts Bonds Trucking out of Durango to haul the sludge.

The Silverton Standard & the Miner first reported about the crash.

The EPA just started on June 15 hauling sludge from the water treatment plant, about 10 miles north of Silverton in an area known as Gladstone, to a historic mine waste pile, called the Kittimac, along County Road 2.

The trip is 10 to 15 miles one way, but involves windy, mountainous dirt roads.

Three months after the EPA triggered the Gold King Mine spill in August 2015, the agency built a temporary water-treatment plant to treat mine waste discharges out of the mine.

The process, however, generates an estimated 4,600 cubic yards of sludge a year. The EPA announced earlier this year it was running out of room at Gladstone to store the sludge, forcing the need to haul it to Kittimac.

The EPA has said previously because of the treatment process at the plant, the sludge is not considered hazardous. The EPA's water treatment plant adds lime to the mine waste that flows out of the Gold King Mine to neutralize the pH level of the water and stabilize potentially toxic metals.

About 95 percent of the sludge is the lime treatment. The other five percent are potentially toxic metals like arsenic, lead, iron and aluminum.

The EPA said in its prepared statement it appears the truck's fuel tank was not damaged.

Officials

Bloomberg Environment

<https://bna.bna.com/environment-and-energy/pruitt-spokesman-leaving-epa-for-republican-political-campaigns>

Pruitt Spokesman Leaving EPA for Republican Political Campaigns

Published July 10, 2018 at 2:13pm by: Jennifer A Dlouhy

An EPA spokesman who developed a reputation for fiercely defending the agency's work and its former administrator is leaving to work on Republican political campaigns.

The departure of Jahan Wilcox, a veteran political operative who handled communications for the Environmental Protection Agency, follows the resignation of former Administrator Scott Pruitt last week. The agency's No. 2 official, Andrew Wheeler, is now acting administrator.

"It's been a privilege to advance President Trump's agenda of environmental stewardship and regulatory reform," Wilcox said in a statement. "Now it's time to focus on helping Republicans in November."

Willcox's shift is a return to his roots; he has worked for Republican campaigns and politicians since 2005, according to an online resume. Most recently, Wilcox was communications director for Doug Burgum's successful campaign for North Dakota governor. Wilcox also was an adviser on Iowa Republican Joni Ernst's successful bid for the U.S. Senate in 2014

and directed rapid response for both the Republican National Committee and Sen. Marco Rubio's (Fla.) presidential campaign.